

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SEAN CARLOS BURKE,)	
)	
Plaintiff,)	
)	
v.)	C.A. 05-972
)	
)	Judge Hardiman
CAPTAIN ANTHONY BOYD <i>et al</i> ,)	Magistrate Judge Caiazza
)	In Re:
Defendants.)	

MEMORANDUM ORDER

The Plaintiff's complaint was received by the Clerk of Court on July 15, 2005, and was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's Report, filed on July 31, 2006, made the following Recommendations: the Order granting the Plaintiff's Motion to proceed *in forma pauperis* (Doc. 18) be vacated and that his Motion be denied in accordance with the provisions of 28 U.S.C. § 1915(g). It was further recommended that this action be dismissed because of the Plaintiff's failure to pay the filing fee, reserving his right to reopen this case by paying the full \$350.00 filing fee within sixty days, dating from the entry of a memorandum order.

Service was made on the Plaintiff by First Class United States Mail delivered to the State Correctional Institution at

Forest, Marienville, PA, where he is incarcerated and on the Defendant. Objections were filed by the Plaintiff on August 18, 2006. After de novo review of the pleadings and documents in the case, together with the Report and Recommendation and the objections thereto, the following order is entered:

AND NOW, this 22nd day of August, 2006

IT IS HEREBY ORDERED that the Order granting the Plaintiff's Motion to proceed *in forma pauperis* (Doc. 18) is VACATED and that his Motion is DENIED.

IT IS FURTHER ORDERED that this action is DISMISSED reserving the Plaintiff's right to reopen this case by paying the full \$350.00 filing fee within sixty days, dating from the entry of a memorandum order.

The Report and Recommendation of Magistrate Judge Caiazza, (Doc. 77) dated July 31, 2006, is adopted as the opinion of the court.



Thomas M. Hardiman
U.S. District Court Judge

cc:
Francis X. Caiazza
U.S. Magistrate Judge

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